IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.1331 OF 1983

Bank of India .. Plaintiffs

Versus

Ashok Ghosh & Sole

Proprietor of Messrs Ashok & co... Defendants

Mr.R.R.Singh i/b O.A.Das for plaintiffs

None for defendants.

CORAM : P.V.KAKADE, J.

DATE : 13TH AUGUST, 2004.

P.C.:

1. The Plaintiff Bank has filed the suit against the defendants for recovery of the amount of Rs.91,866.81 with further interest thereon @ 19 1/2% per annum and 21 1/2% p.a. respectively with quarterly rest from the date of filing of the suit till payment.

2. The defendant was having Current Account with the

plaintiff bank which was opened on request of the defendants on 20.8.1980 and defendant issued cheque for Rs.51,000/= against the credit balance of Rs.45,369/= . The balance was treated as TOD. Thereafter there were similar transactions and ultimately the account was overdrawn to the tune of Rs.11,731.83. On 29.8.1980 on request of the defendants the plaintiff bank had granted cheque purchase facility on condition that the plaintiffs would purchase the cheque from the defendants and would advance money before the clearance of the cheque. The defendants accepted the condition and plaintiffs have advanced sum of Rs.50,000/= against the purchase of cheque of Rs.52,000/= drawn by one third party. The said cheque was dishonoured and therefore plaintiffs requested the defendants to repay the said amount but in vein. Hence the suit came to be filed for recovery of the amount with interest.

3. The defendants have filed their written statement and raised various contention and sought dismissal of the suit.

4. The issues were framed on the basis of the available pleadings. The issues and my findings thereon are as

follows :

ISSUES	FINDINGS
1. Whether the plaintiffs prove that they have granted T.O.D. to the defendant ?	In the affirmative
2. Whether the plaintiffs are entitled for interest claimed ?	In the affirmative till the date of filing of the Suit.
3. What order ?	As per final order below.

4. At the out set it may be noted that the defendants remained absent and the suit proceeded ex-parte against them though they have filed written statement. On the other hand the plaintiffs have entered into witness box and proved the contents of affidavit of evidence as well

as Plaint. The Plaintiffs have also produced the original documents in compilation, contents of which are testified to be correct. Therefore, the entire evidence of the plaintiffs has remained unchallenged. Hence the Order.

The suit stands decreed with costs.

The defendants shall pay amount of Rs.91,866.81 to the Plaintiffs along with interest @ 6% p.a. on the said amount from the date of the suit till payment or realisation.